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February 2, 2024

Via ECF, E-mail & Facsimile

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
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*Sentencing Proceedings
will be conducted as
scheduled
2-4-24
Alvin K. Hellerstein*

Re: *United States v. Cliver Alcalá Cordones*, 11 Cr. 205 (AKH)

Dear Judge Hellerstein,

I am lead counsel for General Cliver Alcalá Cordones in the above-referenced matter. As the Court may recall, on January 18, 2024, the Court scheduled a *Fatico* hearing in connection with General Alcalá's sentencing to occur on February 27 and 28, 2024. However, on January 29, 2024, the Honorable P. Kevin Castel appointed me to the trial team defending Juan Carlos Bonilla Valladares whose trial is scheduled to commence on February 12, 2024. That trial is expected to last approximately two to three weeks, or longer, depending on the defense cases. Therefore, as it currently stands, I am scheduled to be in two different court rooms on February 27 and 28, 2024, at the same time. In addition to that impossibility, preparing for both the *Fatico* hearing in which the government intends to call two to three cooperating witnesses as well as the strong possibility that the defense may call its own witnesses, and getting up to speed to assist a trial team in a complex international matter has put me in a precarious position.

As the Court is aware, General Alcalá has been detained in the United States pending resolution of this case since he voluntarily surrendered to United States law enforcement in Colombia in March 2020. I have been representing General Alcalá as lead counsel pursuant to the Criminal Justice Act ("CJA") since June 2020. Three years later, on June 29, 2023, after lengthy negotiations with the government, General Alcalá pled guilty, pursuant to a plea agreement, for providing aid to the FARC when he was a general in Venezuela. General Alcalá was scheduled to be sentenced by the Court on January 18, 2024, but during that conference the Court determined that a *Fatico* hearing was necessary before proceeding to sentencing and scheduled one to take place on February 27 and 28, 2024.

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With respect to the Bonilla Valladares matter, on December 19, 2023, in response to the defendant's request for new counsel, the Honorable P. Kevin Castel appointed me pursuant to the CJA to advise defendant Bonilla Valladares in *United States v. Diaz Morales*, 15 Cr. 379 (PKC) solely with respect to pretrial matters – my professional obligations in the matter were scheduled to terminate with the empanelment of a jury and the commencement of trial (on February 5 and then later February 12). Mr. Bonilla Valladares has been continuously detained in the United States since being extradited from Honduras in May 2022. Mr. Bonilla Valladares has been represented by the same CJA attorney, Raoul Zaltzberg, since May 2022, and by Bernarda Villalona as associate counsel since at least January 2023. Two defendants, Mr. Bonilla Valladares and the former president of Honduras, are scheduled to commence trial on February 12, 2024. The trial is anticipated to last two to three weeks, not including any defense cases. The defendant, Mr. Bonilla Valladares sought an adjournment of the trial date, the appointment of new counsel, and my inclusion on any trial team going forward.

In an order entered January 29, 2024, Judge Castel denied his request for an adjournment and new counsel but granted his requested to appoint me as part of the trial team. That same day, I filed a letter motion asking Judge Castel to reconsider his order appointing me as counsel on Mr. Bonilla Valladares' trial team due to my outstanding conflicts and obligations, including the hearing scheduled in General Alcalá's matter before this Court. *See* 15 Cr. 379 (PKC), ECF No. 682. On January 30, 2024, Judge Castel denied my motion but recognized "that the circumstances describe[d] in [my] letter may further limit [my] participation" in the trial while still enabling me to "render valuable assistance[.]" 15 Cr. 379 (PKC), ECF No. 684.

As it currently stands, I am scheduled to represent General Alcalá in an involved *Fatico* hearing while simultaneously representing Mr. Bonilla Valladares at trial. Getting up to speed and assisting the current trial team while at the same time preparing for General Alcalá's hearing is simply not possible, nor is it fair to General Alcalá or Mr. Bonilla Valladares. I note that General Alcalá is eager to proceed to sentencing and does not want the *Fatico* hearing in his case to be adjourned.

Accordingly, I write to seek guidance from the Court on how to resolve this situation. I have copied Judge Castel's chambers on this correspondence to facilitate a resolution to these conflicts. I appreciate the Court's assistance and consideration and remain available to the Court as needed.

Respectfully submitted,

/s/

César de Castro

cc: All Parties in This Matter (via ECF)
Chambers of The Honorable P. Kevin Castel (via Email)
Elinor Tarlow, Assistant United States Attorney (via Email)
Kyle Wirshba, Assistant United States Attorney (via Email)
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